

## **NOTE 16 – LEGAL MATTERS, CONTINGENT LIABILITIES, AND OTHER COMMITMENTS**

### **Primary Government**

There is no litigation or claim currently pending against King County in which to our knowledge the likelihood of an unfavorable outcome with material damages assessed against the County is considered "probable."

The following litigation, or potential litigation, may involve claims for material damages against King County for which the County is unable to provide an opinion as to the ultimate outcome or the amount of damages that may be found:

- Several claims for additional compensation totaling an estimated \$1 million filed by a general contractor against the County and a generator supplier under a project to provide backup generators and repair roofs at several pump stations operated by the Wastewater Treatment Division. Post-mediation settlement efforts are currently on-going on this case and on a cross-claim by the County against the supplier.
- A potential administrative order from the Environmental Protection Agency (EPA) that may require the County, the City of Seattle, the Boeing Company, and the Port of Seattle to remediate the contamination in the Lower Duwamish Waterway. This will depend on the results of an investigation being conducted by these agencies to determine the nature and extent of the contamination. Related to this, the Washington State Department of Ecology (DOE) has given notice that the County, the City of Seattle, and Boeing may be required to fund or help fund the investigation of a specific County property, currently leased to Boeing, to determine the nature, extent and potential clean-up of any hazardous waste in an effort to prevent recontamination of the waterway.
- Potential claims for past and future cleanup costs at the Harbor Island Superfund Site. Certain removal costs incurred by the Port of Seattle are expected to be defrayed by the County and the City of Seattle. The same three parties also have an agreement to share the cost of a supplemental investigation and feasibility study required by the EPA and any potential remediation cost for other contamination that may be uncovered.
- A claim in the amount of \$4.6 million filed by a contractor for impacts and costs caused by differing site conditions due to soil contamination at the Vashon Island treatment plant project site. Plaintiff asserts that in addition to known impacts at the time of discovery other impacts have occurred that could not have been anticipated at the time. The matter is currently under the contract's administrative review process.
- A proposed class action lawsuit against the County where the plaintiff, representing similarly situated public defenders and their staff, allege that the County should have enrolled them into the State retirement system.
- An "agreed order" from the Washington State Department of Ecology calling for interim cleanup action on an area that was contaminated as a result of the replacement of the combined sewer overflow in Seattle. The County is negotiating the order which could potentially cost an estimated \$3.5 - \$4.0 million.
- A lawsuit seeking declaratory relief and a monetary judgment while alleging that County transit service violates the plaintiff's rights to be sole provider of direct airporter service between downtown Seattle and Sea-Tac International Airport. Prior to the lawsuit, the company filed an unsuccessful claim with the County for \$13.4 million in damages.

In 2007, final judgment was rendered on a class action lawsuit that challenged the legality of the permit fees charged by the King County Department of Development and Environmental

**NOTE 16 – CONTINUED**

Services. The ruling was largely favorable to the County as most indirect costs were determined to be proper components of its permit fees. Some costs however were disallowed and the court has ordered the refund of about \$2.4 million to the class members.

**Contingent Liabilities**

King County has entered into several contingent loan agreements totaling \$76.3 million with the King County Housing Authority (KCHA) and other owners/developers of affordable housing. The County has provided credit support in the form of reserve guarantees for certain bonds issued by the KCHA. All projects are currently self-supporting and the County has made no loans pursuant to these agreements.

**Future Lease Commitments**

King County has outstanding project lease agreements which involve the financing and construction of specific buildings by "63-20" non-profit corporations and the subsequent lease of the properties to the County upon "substantial completion." The buildings include the Goat Hill Office Building and Parking Facility, managed by Goat Hill Properties, which is expected to be completed by September 2007; and the Ninth and Jefferson Building, managed by NJB Properties, which is expected to be completed by June 2010. The Goat Hill Properties lease will cost approximately \$7.1 million annually from 2008-2032 while the NJB Properties lease is estimated to cost approximately \$12.5 million annually from 2011-2036. Each lease will be accounted for as a capital lease in the year the lease commences.

**Other Commitments**

The Solid Waste Enterprise paid the County General Fund \$7.43 million for annual rent on the Cedar Hills landfill site in 2006. Solid Waste is committed to pay rent as long as the Cedar Hills site continues to accept waste.

**Component Unit – Harborview Medical Center**

Harborview Medical Center (HMC) is involved in litigation arising in the course of business. It is HMC management's opinion that these matters will be resolved without material adverse effect to HMC's future financial position or results of operations.

The current regulatory environment in the healthcare industry is one of increasing governmental activity with respect to investigations and allegations concerning possible violations of regulations by healthcare providers that could result in the imposition of significant fines and penalties, including substantial repayments of patient services previously billed. HMC believes that it complies with the fraud and abuse regulations, as well as with other laws and regulations. Compliance with such laws and regulations can be subject to future governmental review and interpretation and regulatory actions unknown or unasserted at this time.

HMC is operated by the University of Washington under a management and operations contract with King County. In this contract the University of Washington agrees to defend, indemnify, and "save harmless" King County, its elected and appointed officials, employees, and agents, from and against any damage, cost, claim, or liability arising out of the negligent acts or omissions of the University, its employees or agents, or arising out of the activities or operations of the medical center.